

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

NETLIST, INC.

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD, et al.

Defendants.

Civil Case No. 2:22-cv-00293-JRG  
(Lead Case)

**JURY TRIAL DEMANDED**

NETLIST, INC.

Plaintiff,

v.

MICRON TECHNOLOGY TEXAS, LLC, et al.

Defendants.

Civil Case No. 2:22-cv-00294-JRG  
(Member Case)

**JURY TRIAL DEMANDED**

**MICRON'S RESPONSE TO NETLIST'S REQUEST FOR MOTIONS DKT. NOS. 274  
AND 279 TO BE HEARD BY THE SPECIAL  
MASTER, HON. DAVID FOLSOM**

Defendants (“Micron”) hereby respond to Netlist’s request for Dkt. Nos. 274 and 279 to be heard by the special master, Hon. David Folsom. As Micron previously told Judge Folsom and Netlist’s counsel: this is a protective order dispute and not a pending discovery dispute as listed in the Court’s appointment of certain specified discovery motions to the special master. Dkt. No. 269 (assigning Dkt. Nos. to Judge Folsom). Micron, however, defers to the Court and Judge Folsom regarding the scope of the referral. If it helps in making that determination: Micron anticipates filing its responsive brief next week. The responsive brief will identify how Netlist is improperly using this case to obtain testimony from lay witnesses for use in PTAB claim construction arguments. This is an improper use of discovery in this case and a violation of the protective order, which states “information ... produced pursuant to any discovery request in this Action ... shall be used by the Parties only in the litigation of this Action and shall not be used for any other purpose.” Dkt. No. 60 at ¶ 5. Netlist has done this several times throughout this litigation and in another litigation between the parties. The PTAB has its own discovery procedures that Netlist could have used if warranted in those proceedings.

Date: December 22, 2023

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 22, 2023, the foregoing document was electronically filed with the Clerk of Court using the Court's CM/ECF system, which will send notification of such filing to all counsel of record, including counsel of record for Plaintiff Netlist Inc.

/s/ Michael Rueckheim  
Michael R. Rueckheim